

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HENRY L. ROBINSON,

Plaintiff,

-against-

VICTORY MITSUBISHI; FLAGSHIP CREDIT
ACCEPTANCE; CRESCENT BANK & TRUST,

Defendants.

23-CV-0385 (LJL)

ORDER OF SERVICE

LEWIS J. LIMAN, United States District Judge:

Plaintiff, who is appearing *pro se*, brings this action under the Court's federal question jurisdiction, asserting claims under the Truth in Lending Act, 15 U.S.C. §§ 1601-1667, the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, and other federal statutes, arising from his purchase of a vehicle at Victory Mitsubishi in the Bronx, New York.¹ By order dated January 30, 2023, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees.

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.² *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all

¹ By order dated March 6, 2023, the Honorable Laura Taylor Swain, in her capacity as Chief Judge, directed Plaintiff to file an amended complaint. (ECF 8.) Plaintiff filed the amended complaint on March 17, 2023. (ECF 9.) The amended complaint is the operative pleading.

² Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served summonses and the amended complaint until the Court reviewed the amended complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date summonses are issued.

process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

To allow Plaintiff to effect service on Defendants Victory Mitsubishi, Flagship Credit Acceptance, and Crescent Bank & Trust through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for Defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

If the amended complaint is not served within 90 days after the date the summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is instructed to issue summonses for Victory Mitsubishi, Flagship Credit Acceptance, and Crescent Bank & Trust, complete the USM-285 forms with the addresses for these defendants, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is further directed to mail an information package to Plaintiff.

SO ORDERED.

Dated: 4/11/2023

New York, New York



LEWIS J. LIMAN
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. Victory Mitsubishi
4070 Boston Road
Bronx, New York 10475
2. Flagship Credit Acceptance
P.O. Box 965
Chadds, Pennsylvania 19317
3. Crescent Bank & Trust
1100 Poydras Street, Ste. 100
New Orleans, Louisiana 70163